

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC JENKINS,

Plaintiff,

v.

THE CITY OF DETROIT,
et al.,

Defendants.

CIVIL ACTION NO. 09-13241

DISTRICT JUDGE JOHN CORBETT O'MEARA

MAGISTRATE JUDGE DONALD A. SCHEER

ORDER

Defendants' Motion for Protective Order was referred to the undersigned magistrate judge for hearing and determination. The parties appeared, by counsel, for hearing on December 22, 2009. Having reviewed the Defendants' Motion, together with Plaintiff's Response, and having had the benefit of oral argument, I find that the Motion should be granted, in part.

This action is based upon the shooting of Plaintiff by a City of Detroit Police Officer on June 10, 2009. Plaintiff served requests for production of documents and things relating to the shooting, including: a) the entire unredacted file compiled by the Internal Affairs, Board of Review or any other agency of the City of Detroit Police Department regarding the shooting of Plaintiff; b) the weapon or weapons used to shoot Plaintiff; c) all forensic evidence collected at the scene, including but not limited to the weapon in question, clothing worn by the officer, and clothing worn by the Plaintiff; and d) any and all forensic evidence testing documents, results, reports, etc. generated in connection with any evidence relating to the shooting of Plaintiff.

Defendant City of Detroit served Responses to Plaintiff's Request for Production, but has not produced the above items. Defendant City asserts that a Police Department Internal Affairs Investigation has been commenced, but is not complete. The City further asserts that the firearm assigned to the Defendant Officer has been submitted to the Michigan State Police laboratory for testing, but that the results of such testing have not yet been received. Defendants seek an Order staying Plaintiff's discovery until the completion of the forensic testing and internal investigation.

More than six months had elapsed from the time of the shooting incident until the hearing of Defendants' Motion. That period of time should have been more than sufficient for the completion of any necessary forensic testing of physical evidence, as well as the internal affairs investigation of the circumstances surrounding Plaintiff's injury. Defendants have failed to produce evidence indicating that a competent investigation could not, and should not, have been completed. Accordingly, the court is not inclined to grant an open ended stay of discovery.

IT IS THEREFORE ORDERED that discovery is stayed in this matter to and including January 31, 2010. IT IS FURTHER ORDERED that Defendant City of Detroit shall produce to counsel for Plaintiff all non-privileged documents, items and things responsive to Plaintiff's Request for Production on February 1, 2010. Any claim of privilege shall be made in strict compliance with Fed.R.Civ.P. 26(b)(5).

s/Donald A. Scheer
DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

DATED: January 13, 2010

CERTIFICATE OF SERVICE

I hereby certify on January 13, 2010 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on January 13, 2010: **None.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge Donald A. Scheer
(313) 234-5217